



January 11, 1999

**Celia Nogales**  
Director - Federal Relations

EX PARTE OR LATE FILED

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**RECEIVED**

**JAN 11 1999**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

RE: **Ex Parte Presentation**  
CC Docket 96-115

Dear Ms. Salas:

In accordance with the Commission's ex parte rules, this letter is to notify you that a presentation was made to the FCC on Friday, January 8, 1999, by Joe LaPorta, Bell Atlantic, Judy Sello, AT&T, Todd Lantor, PCIA, Michael Altschul, CTIA, Lawrence Sarjeant, USTA, Eric Menge, Office of Advocacy, SBA, Marie Guillory, NTCA, Darlene Richeson, GTE, Teresa Werner, Piper & Marbury representing Omnipoint, and myself. Representing the FCC were Carol Matthey, Bill Agee and Anthony Mastando of the Common Carrier Bureau and Peter Wolfe of the Wireless Bureau.

The purpose of the meeting was to discuss the attached 'Proposal for Commission Amendment of Sections 64.2009(a),(c), and (e)' which was developed by members of the industry as an alternative to the Commission's electronic flagging and auditing rules. A list of those parties that have endorsed the proposal to date is also attached. The endorsees (referred to herein as "CPNI Coalition Companies" have adopted this recommendation solely to propose amendments to the sections of the CPNI rules on flagging, electronic auditing and officer certification, specifically Sections 64.2009(a),(c), and (e) of the rules adopted in the CPNI 2<sup>nd</sup> Report and Order, CC Docket No. 96-115. The Common Carrier Bureau invited formation of an industry coalition to address this limited subset of pending CPNI issues in its December 7, 1998 Public Notice (DA 98-2504) calling a meeting for this purpose. Joining in this industry recommendation does not affect positions of the CPNI Coalition companies on any other issues relating to CPNI.

If you have any questions, please do not hesitate to contact me at the number indicated above.

Sincerely,

Attachment

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January 8, 1999

**Proposal For Commission Amendment of Sections 64.2009(a), (c), and (e) of its  
Customer Proprietary Network Information (CPNI) Rules**

The CPNI Coalition recommends that the Commission revise the CPNI rules rather than issue clarifications that are facially inconsistent with the language of the rules as adopted in the February 26, 1998 Second Report and Order in CC Docket No. 96-115.

Amendment of the rules concerning CPNI compliance will ensure that carriers and consumers are able to ascertain carriers' CPNI compliance obligations by consulting the Commission's rules as published in the Code of Federal Regulations.

The rules, as modified below, conform to the statutory scheme and the Commission's intent to protect legitimate consumer privacy interests without imposing extraordinary and unwarranted burdens on carriers. These modifications are supported by a broad-based industry consensus.

**Sections 64.2009(a) - Flagging**

Section 64.2009 (a) states that:

"Telecommunications carriers must develop and implement software that indicates within the first few lines of the first screen of a customer's service record the CPNI approval status and reference the customer's existing service subscription."

The Commission should *modify* Section 64.2009(a) to read as follows:

"Each carrier shall establish guidelines that direct its marketing personnel to determine a customer's CPNI approval and service subscription status prior to the use of CPNI for any offering outside of the service category (i.e., local, interexchange, and CMRS) to which the customer subscribes with that carrier. The carrier shall make such approval and status information available, either electronically or in some other manner, to marketing personnel in a readily accessible and easily understandable format."

## **Sections 64.2009(c) - Electronic Auditing**

Section 64.2009(c) states:

"Telecommunications carriers must maintain an electronic audit mechanism that tracks access to customer accounts, including when a customer's record is opened, by whom, and for what purpose. Carriers must maintain these contact histories for a minimum of one year."

The Commission should *modify* Section 64.2009(c) to read as follows:

"Each carrier shall maintain a file, electronically or in some other manner, of its marketing campaigns that use CPNI, that includes a description of the campaign and the CPNI that was used in the campaign, its date and purpose, and what products and services were offered as part of the campaign. The file must be kept for a minimum of one year."

## **Sections 64.2009(e) - Officer Certification**

Section 64.2009(e) states:

"A telecommunications carrier must have a corporate officer, as an agent of the carrier, sign a compliance certificate on an annual basis that the officer has personal knowledge that the carrier is in compliance with the rules in this subpart. A statement explaining how the carrier is in compliance with the rules in this subpart must accompany the certificate."

The Commission should *modify* Section 64.2009(e) to read as follows:

"A telecommunications carrier must have an officer, as an agent of the carrier, sign a compliance certificate on an annual basis that the carrier is in compliance with the rules in this subpart. A statement explaining how the carrier is in compliance with the rules in this subpart must accompany the certificate."

The Commission should further *clarify* that, as a foundation for the officer certification required by Section 64.2009(e), a carrier shall:

- establish an internal compliance oversight function to monitor ongoing CPNI compliance efforts.
- conduct an annual CPNI compliance review.
- describe as part of the statement accompanying the officer certification the variety of mechanisms used by the carrier to comply with the rules in this subpart.

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